Therefore, pursuant to 37 CFR 1.607, Applicants respectfully request than an interference should be declared between the present application and U.S. Patents 6,110,677 and 6,121,001.

I. Drawings

The Examiner has requested new formal drawings. Applicants have included formal drawings with this communication. Applicants note that these drawings are from the issued parent application, U.S. Patent 6,372,424. As such, this objection should be removed.

II. The Claim Are Fully Supported In the Specification

The Examiner rejected Claim 108 under 35 U.S.C. 112, first paragraph, as allegedly containing subject matter not described in the Specification. In particular, the Examiner alleges that the claim language "a molar excess of said first oligonucleotide relative to the concentration of said polynucleotide" does not find support in the Specification. Applicants respectfully disagree, and submit that clear support for this limitation is found in the Specification. For example, page 140, first paragraph, describes an embodiment where the "oligo is in excess of the target" (see line 6). This provides clear support for the language in Claim 108. As such, applicants request that this rejection be withdrawn.

III. Antecedent Basis Rejection

The Examiner pointed out that the limitation "said isothermal conditions" at line 13 in Claim 108 lacked antecedent basis. This was a typographical error that has been corrected by amending Claim 108 (as noted above). As such, this rejection should be removed.

IV. A 1449 Form Has Been Included

Applicants note that this Application is a Continuation of now issued U.S. Patent 6,372,424. Applicants have included a 1449 form the parent case in this Application. Applicants request that these references be made of record in this application.

V. CONCLUSION

Applicants respectfully request that the Examiner's objections and rejections be removed, and that an interference be declared. If an interview would aid in the prosecution of this Application, the Examiner may call the undersigned at 608-218-6900.

Dated: November 27, 2002

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APPENDIX I

VERSION WITH MARKINGS TO SHOW CHANGES MADE

108. (amended) A method of modifying or detecting a polynucleotide, said method comprising:

(a) providing in combination:

i) a medium suspected of containing said polynucleotide,

ii) a first oligonucleotide or a molar excess of said first oligonucleotide relative to the concentration of said polynucleotide, with said first oligonucleotide having a 3' portion capable of reversibly hybridizing to said polynucleotide and a 5' portion which does not hybridize to said polynucleotide,

iii) a 5'-nuclease, and optionally

iv) a second oligonucleotide that hybridizes to a site on said polynucleotide that is 3' of the site at which said first oligonucleotide hybridizes,

(b) reversibly hybridizing under [said] isothermal conditions said polynucleotide and said first oligonucleotide, wherein said first oligonucleotide, when hybridized to said polynucleotide, is cleaved by said 5'-nuclease as a result of the presence of said polynucleotide to provide: (i) a first fragment that is substantially non-hybridizable to said polynucleotide, or a first fragment including said 5' portion and no more than one nucleotide from the 5' end of said 3' portion, and (ii) a second fragment that is 3' of said first fragment with reference to said first oligonucleotide and is substantially hybridizable to said polynucleotide, and optionally

(c) detecting the presence of said first fragment, said second fragment, or said first and second fragments, the presence thereof indicating the presence of said polynucleotide.

APPENDIX II

COMPLETE SET OF PENDING CLAIMS

108. A method of modifying or detecting a polynucleotide, said method comprising:

(a) providing in combination:

i) a medium suspected of containing said polynucleotide,

ii) a first oligonucleotide or a molar excess of said first oligonucleotide relative to the concentration of said polynucleotide, with said first oligonucleotide having a 3' portion capable of reversibly hybridizing to said polynucleotide and a 5' portion which does not hybridize to said polynucleotide,

iii) a 5'-nuclease, and optionally

iv) a second oligonucleotide that hybridizes to a site on said polynucleotide that is 3' of the site at which said first oligonucleotide hybridizes,

(b) reversibly hybridizing under isothermal conditions said polynucleotide and said first oligonucleotide, wherein said first oligonucleotide, when hybridized to said polynucleotide, is cleaved by said 5'-nuclease as a result of the presence of said polynucleotide to provide: (i) a first fragment that is substantially non-hybridizable to said polynucleotide, or a first fragment including said 5' portion and no more than one nucleotide from the 5' end of said 3' portion, and (ii) a second fragment that is 3' of said first fragment with reference to said first oligonucleotide and is substantially hybridizable to said polynucleotide, and optionally

(c) detecting the presence of said first fragment, said second fragment, or said first and second fragments, the presence thereof indicating the presence of said polynucleotide.

109. The method of Claim 108, wherein said polynucleotide is from a source selected from the group consisting of viruses, bacteria, fungi, mycoplasma, and protozoan.

110. The method of Claim 108, wherein said oligonucleotide hybridization sites are contiguous.

111. The method of Claim 108, wherein at least one of said first fragment and said second fragment has a label.